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10 Attorneys for Defendant  
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11 [Additional counsel identified on  
12 signature pages.]

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION  
16

17 MARC OPPERMAN, *et al.*,  
18 Plaintiffs,  
19 v.  
20 PATH, INC., *et al.*,  
21 Defendants.  
22

Case No. 3:13-CV-00453-JST

**OBJECTIONS TO AND REQUEST THAT  
THE COURT STRIKE PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
ADMINISTRATIVE MOTION TO SET  
TIME FOR RESPONSE TO SECOND  
AMENDED COMPLAINT OR,  
ALTERNATIVELY, TO SCHEDULE A  
CASE MANAGEMENT CONFERENCE,  
PURSUANT TO LOCAL RULE 7-11**

1 Defendants Twitter, Inc. (“Twitter”), Apple, Inc., Chillingo Ltd. (“Chillingo”), Electronic  
 2 Arts, Inc. (“EA”), Facebook, Inc., Foodspotting, Inc., Gowalla Inc., Instagram, Inc., Kik  
 3 Interactive, Inc., Path, Inc., Rovio Entertainment Ltd. s/h/a Rovio Mobile Oy, Yelp! Inc. and  
 4 ZeptoLab UK Limited (collectively “Defendants”) hereby object to and respectfully request that  
 5 the Court strike Plaintiffs’ Opposition to Defendants’ Administrative Motion to Set Time for  
 6 Response to Second Amended Complaint or, Alternatively, to Schedule a Case Management  
 7 Conference, Pursuant to Local Rule 7-11 (“Opposition”) [Dkt. 273].

8 Defendants object to and request that the Court strike Plaintiffs’ Opposition on the  
 9 following grounds:

10 1. Plaintiffs’ counsel, Jeff Edwards and Carl F. Schwenker, are not admitted to the  
 11 bar of this Court, and they have not obtained orders permitting them to appear before the Court  
 12 *pro hac vice*.<sup>1</sup> No counsel who is a member of the bar of this Court has made an appearance on  
 13 behalf of Plaintiffs in this matter.<sup>2</sup>

14 2. Without obtaining leave, Plaintiffs have filed in this Court an Opposition more  
 15 than double the page limitation imposed by Local Rule 7-11(b). That Rule provides that any  
 16 opposition to a motion for administrative relief “may not exceed 5 pages.” Plaintiffs filed a brief  
 17 in excess of 10 pages without seeking and obtaining leave of Court.

18 Defendants believe that their Administrative Motion should be granted, and that the Court  
 19 should set a date for Defendants to respond to Plaintiffs’ Second Amended Complaint, whether  
 20 by answer or by motion to dismiss, 20 days after a ruling on the pending motions to sever. [Dkt.  
 21 269.]

22  
 23  
 24 <sup>1</sup> Only members of the bar of the Northern District of California may practice before this  
 25 Court. N.D. Cal. Local Rule 11-1(a). Mr. Edwards and Mr. Schwenker state in the caption of the  
 26 Opposition that they are “to be admitted *pro hac vice*,” but they have not filed an application  
 27 pursuant to Local Rule 11-3.

28 <sup>2</sup> Plaintiffs’ counsel also filed in this case an Opposition to the Motion of Chillingo and  
 EA to Sever [Dkt. 274], Opposition to Twitter’s Renewed Motion to Sever [Dkt. 268], Notice of  
 Filing on Motion to Relate in Hernandez Case [Dkt. 255], and Consent to Proceed before a  
 Magistrate Judge [Dkt. 239]. Plaintiffs’ counsel also filed a response to Apple’s Motion to Relate  
 in *Hernandez v. Path, Inc.*, Case. No. 4:12-CV-01515-YGR.

1 If the Court believes it would be helpful, Defendants will submit a reply in support of the  
 2 Administrative Motion that responds to the factual and legal contentions made by Plaintiffs in  
 3 their Opposition. Contrary to Plaintiffs' assertion, Defendants did *not* act as though they had  
 4 unlimited time to respond to the Second Amended Complaint, and they actively engaged  
 5 Plaintiffs on scheduling issues almost immediately after the motions to transfer were granted.<sup>3</sup>  
 6 Defendants' counsel repeatedly attempted to reach agreement with Plaintiffs' counsel, and they  
 7 were led to believe by Plaintiffs' counsel that a scheduling stipulation was likely.

8 Defendants respectfully request that the Court strike or disregard Plaintiffs' Opposition. If  
 9 the Court chooses not to strike Plaintiffs' Opposition, Defendants respectfully request in the  
 10 alternative that the Court permit Defendants to file a reply in support of the Administrative  
 11 Motion, not to exceed 10 pages.

12  
 13 Dated: March 11, 2013

**PERKINS COIE LLP**

*/s/ Timothy L. Alger*

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 Timothy L. Alger

Attorneys for Defendant  
 TWITTER, INC.

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 26 <sup>3</sup> (See Declarations of Timothy L. Alger [Dkt. 269-1] and Marc J. Zwillinger [Dkt 269-2]  
 27 in Support of Defendants' Administrative Motion to Set Time for Response to Second Amended  
 28 Complaint, or Alternatively, to Schedule a Case Management Conference, Pursuant to Local Rule  
 7-11, filed on March 6, 2013, and Declaration of S. Ashlie Beringer in Support of Defendants'  
 Administrative Motion to Set Time for Response to Second Amended Complaint, or  
 Alternatively, to Schedule a Case Management Conference, Pursuant to Local Rule 7-11, filed  
 concurrently.)

1 Dated: March 11, 2013

**ZWILLGEN PLLC**

2 */s/ Marc J. Zwilling*

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9 CHILLINGO LTD. and ELECTRONIC ARTS,  
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11 Dated: March 11, 2013

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12 */s/ Michael H. Page*

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20 Dated: March 11, 2013

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1 Dated: March 11, 2013

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11 Dated: March 11, 2013

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20 Dated: March 11, 2013

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1 Dated: March 11, 2013

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18 Dated: March 11, 2013

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**ATTESTATION PURSUANT TO LOCAL RULE 5-1(i)(3)**

I, Timothy L. Alger, hereby attest, pursuant to Local Rule 5-1(i)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: March 11, 2013

**PERKINS COIE LLP**

*/s/ Timothy L. Alger*  
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Timothy L. Alger

Attorneys for Defendant  
TWITTER, INC.